

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:08CR3129
)	
v.)	
)	MEMORANDUM AND ORDER
KELVIN L. STINSON,)	
)	
Defendant.)	

Defendant Kelvin L. Stinson has filed a motion to suppress and for disclosure of complete identification evidence, (filing no. [169](#)), and a motion to continue his trial currently scheduled to begin on August 31, 2009. (Filing No. [170](#)). The defendant seeks to suppress the out-of-court identification of defendant Stinson by government witness Marcus L. Green on the grounds that the out-of-court photo lineup used was overly suggestive and prejudicial, and therefore all in-court identification testimony by Green must be suppressed.

IT IS ORDERED:

- 1) An evidentiary hearing on defendant's motion to suppress, (filing no. [169](#)), will be held before the undersigned on September 24, 2009 beginning at 1:30 p.m. in Courtroom #1, United States Courthouse, Lincoln, Nebraska. The court has set aside one and one-half hours for this hearing.
- 2) The defendant, defendant's counsel, and counsel for the government shall be present at this hearing.

- 3) Pursuant to NECrimR 12.5, copies of all exhibits expected to be offered into evidence during the hearing, except those to be used for impeachment only, shall be delivered to the chambers of the undersigned at least twenty-four (24) hours before the hearing and, at the outset of the hearing, to the extent reasonably possible, the parties shall provide the undersigned and the courtroom deputy with a written list of all witnesses the parties expect to call.
- 4) The defendant's motion to continue, (filing no. [170](#)), is granted, and the trial of this case is continued until further order of the court following resolution of outstanding motions.

DATED this 20th day of August, 2009.

BY THE COURT:

Richard G. Kopf

United States District Judge